

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRENTON CORY RODEHEAVER, :
Plaintiff :
v. : Case No. 3:16-cv-209-KRG-KAP
TROY NELSON, WARDEN BEDFORD :
COUNTY PRISON, *et al.*, :
Defendants :

Memorandum Order

Plaintiff's complaint was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.

The Magistrate Judge filed a Report and Recommendation on September 30, 2018, ECF no. 29, recommending that the motion for summary judgment by defendants Baker and Calhoun at ECF no. 22 be granted. Previous Reports and Recommendations at ECF no. 6 and ECF no. 8 had recommended that the complaint as amended be dismissed as to defendants Nelson, Stevie/Stevey, and Bernazolli. As the Report and Recommendation at ECF no. 29 noted, all of the plaintiff's claims except those in Counts 1 and 2 were for injunctive relief only and therefore were rendered moot by the end of plaintiff's confinement at the Bedford County Prison.

The plaintiff submitted a proposed amended complaint at ECF no. 11 that was docketed as a motion to amend the complaint and denied at ECF no. 16. Because the filing of the amended complaint had been permitted, the Magistrate Judge's order at ECF no. 16

should have been described as a Report and Recommendation finding the proposed amendment inadequate.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1) they had fourteen days to file written objections to the Reports and Recommendations. No timely objections were filed to the Report and Recommendation at ECF no. 29. Plaintiff filed a one-page pleading styled "Objections" at ECF no. 10 to the recommendation at ECF no. 6 that defendants Nelson, Stevie/Stevey, and Bernazolli be dismissed from the case, but the pleading lacks any substantive content and cannot be regarded as objections. The proposed additions to the complaint at ECF no. 11, when added to the previous versions of the complaint, do not amount to a claim against defendants Nelson, Stevie/Stevey, and Bernazolli. Further leave to amend is denied as inequitable.

After review of the record of this matter and the Report and Recommendation under the "reasoned consideration" standard, see EEOC v. City of Long Branch, 866 F.3d 93, 100 (3d Cir.2017) (standard of review when no timely and specific objections are filed), the following order is entered:

AND NOW, this 29th day of November, 2018, it is

ORDERED that the complaint is dismissed for failure to state a claim, without further leave to amend, as to defendants Nelson, Stevie/Steveve, and Bernazolli. The motion for summary judgment by defendants Calhoun and Baker at ECF no. 22 is granted. The Reports and Recommendations at ECF no. 6 and ECF no. 29 are adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Brenton C. Rodeheaver MU-9375
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510